

Board of Tax Appeals

Phil Cummins, Economist

- Caseload is growing and further rise appears likely
- Delays in terminating cases may result, as staffing was cut by one-third a few years ago

OVERVIEW

The Board of Tax Appeals (BTA) provides an expert forum outside the court system to resolve controversies between taxpayers and taxing authorities in a timely and cost-effective way while still satisfying due process requirements. With a budget of about \$2.3 million and 22 employees including the three board members, BTA renders decisions on the 1,600 to 1,900 appeals filed with it in most years. The agency aims to terminate cases within 12 months of filing, though some take longer than this. BTA is an independent, quasi-judicial, single-purpose body, established in 1939 within the Department of Taxation. The Board has operated as a separate agency since 1976. It is comprised of three members appointed by the Governor for six-year terms. The staff includes attorney examiners who manage cases and preside at evidentiary hearings to determine the facts of these cases as the basis for decisions taken by vote of the Board members. Attorney examiners also conduct mediation sessions.

Duties and Responsibilities

BTA's three board members are authorized to determine all appeals regarding questions arising under Ohio tax laws, other than estate taxes. Most appeals to BTA arise from real estate valuations by county boards of revision. Cases also arise from appeals of determinations or of rules adopted by the Tax Commissioner, including the Division of Tax Equalization. Another source of cases is appeals of allocations by county budget commissioners of tax receipts to political subdivisions. Decisions by the Director of the Department of Development that enterprises are not qualified for tax incentive qualification certificates may be appealed to BTA. Beginning with tax year 2004, appeals of decisions of municipal boards of appeal regarding municipal income tax obligations were added to BTA's responsibilities. Decisions of the Board of Tax Appeals may themselves be appealed to either the appropriate Ohio Court of Appeals or directly to the Ohio Supreme Court.

BTA is funded entirely from the GRF. More than 90% of the agency's budget is for payroll costs. Tight budgets in the first half of this decade led to reduction in the Board's staff by one-third. BTA's ongoing challenge is to provide high quality decisions in a timely manner on appeals filed with the agency. BTA was able to realize efficiencies in its operations and continue to terminate cases in a timely manner following staffing cuts. However, continued timely termination of cases may be increasingly problematic.

In FY 2007, 2,031 appeals were filed with BTA, one of the highest levels in recent years at the agency except for FY 2003 when an Ohio Supreme Court procedural decision resulted in 1,100 cases being dismissed and refiled. The total number of decisions issued in the latest year, 1,917, was the fewest in more than a decade. However, the total number of appeals terminated increased, but remained below case termination rates in FY 2000 through FY 2005. Appeals pending at year-end, 2,320, was the highest since FY 2000.

A number of developments make likely further increases in BTA's caseload. The agency's responsibility for municipal income tax cases is resulting in appeals both by city tax directors and by individuals and businesses. The new commercial activity tax is likely to result in appeals to BTA, though that had not yet occurred as of early August 2007. The absence of a well-established body of case law implies more gray areas and a longer decision process. The phaseout of taxation of most tangible personal property in the state may result in additional efforts to have business property classified as personal rather than real. Property tax exemptions may continue to be contested. The agency can be expected to continue to receive filings of public utility and personal income tax cases. Property tax reappraisals in some larger counties in tax years 2005 and 2006 will likely tend to result in an upturn in caseload in CY 2007 and CY 2008.

Total staffing on June 30 was 22 including one part-time attorney examiner. The number of employees shown in the table below, 21, was as of June 15. In addition, BTA has an open position to replace another attorney examiner. The three Board members are full-time employees of the agency and are included in these numbers.

Agency in Brief

Agency In Brief					
Number of Employees*	Total Appropriations-All Funds		GRF Appropriations		Appropriation Bill(s)
	2008	2009	2008	2009	
21	\$2,247,476	\$2,281,188	\$2,247,476	\$2,281,188	Am. Sub. H.B. 119

*Employee count obtained from the Department of Administrative Services (DAS) payroll reports as of June 2007.

ANALYSIS OF THE BUDGET

Single Program Series

Tax Dispute Resolution

Purpose: To hear and determine all appeals regarding questions of law and fact arising under the tax laws of the state of Ohio

The following table shows the line item that is used to fund the tax dispute resolution program, including the funding levels for the current biennium.

Fund	ALI	Title	FY 2008	FY 2009
General Revenue Fund				
GRF	116-321	Operating Expenses	\$2,247,476	\$2,281,188
General Revenue Fund Subtotal			\$2,247,476	\$2,281,188
Total Funding: Tax Dispute Resolution			\$2,247,476	\$2,281,188

Program Description: The Board of Tax Appeals conducts evidentiary hearings on appeals of tax cases from county boards of revision, determinations by the Tax Commissioner, and other sources. These hearings serve as the basis for decisions by Board members. BTA also conducts voluntary mediation sessions, which often save money for appellants and make more efficient use of BTA resources.

Funding Source: GRF

Implication of the Budget: The budget provides for a 1.6% increase in BTA funding for FY 2008 from the adjusted appropriation for FY 2007, and a 1.5% increase for FY 2009. The agency testified in May 2007 that BTA's FY 2009 total appropriation would require the agency to lay off staff in that year, and that the average time to terminate cases would likely increase because of the rise in appeals filed in FY 2007.

FY 2008 - 2009 Final Appropriation Amounts

All Fund Groups

<i>Line Item Detail by Agency</i>	<i>FY 2005:</i>	<i>FY 2006: Appropriations:</i>	<i>FY 2007 Adj. Appropriations:</i>	<i>FY 2008 Appropriations:</i>	<i>% Change 2007 to 2008:</i>	<i>FY 2009 Appropriations:</i>	<i>% Change 2008 to 2009:</i>
Report For: Main Operating Appropriations Bill		Version: Enacted					
BTA Tax Appeals, Board of							
GRF 116-321 Operating Expenses	\$ 2,035,288	\$ 1,976,715	\$ 2,211,035	\$ 2,247,476	1.65%	\$ 2,281,188	1.50%
General Revenue Fund Total	\$ 2,035,288	\$ 1,976,715	\$ 2,211,035	\$ 2,247,476	1.65%	\$ 2,281,188	1.50%
Tax Appeals, Board of Total	\$ 2,035,288	\$ 1,976,715	\$ 2,211,035	\$ 2,247,476	1.65%	\$ 2,281,188	1.50%